

The Honorable Robert J. Bryan

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

U.S OIL TRADING LLC,

Plaintiff,

v.

M/V VIENNA EXPRESS, her tackle, boilers,  
apparel, furniture, engines, appurtenances, etc.,  
*in rem*, and M/V SOFIA EXPRESS, her tackle,  
boilers, apparel, furniture, engines,  
appurtenances, etc. *in rem*,

Defendants.

Hapag-Lloyd Aktiengesellschaft, *as claimant to  
the in rem defendant M/V VIENNA EXPRESS*,

Counter-Claimant and Third-Party Plaintiff,

v.

U.S. OIL TRADING LLC,

Counter-Defendant and

O.W. BUNKER GERMANY GMBH, O.W.  
BUNKER & TRADING A/S ING BANK N.V.,  
CREDIT AGRICOLE CORPORATE AND  
INVESTMENT BANK, a division or arm of  
CREDIT AGRICOLE S.A.,

Third-Party Defendants.

IN ADMIRALTY

No. 3:14-CV-05982-RJB

**DECLARATION OF  
BRUCE G. PAULSEN, ESQ.**

**DECLARATION OF BRUCE G. PAULSEN, ESQ. - 1**

Case No. 3:14-CV-05982-RJB

FOSTER PEPPER PLLC  
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PHONE (206) 447-4400 FAX (206) 447-9700

1  
2 I, Bruce G. Paulsen, pursuant to 28 U.S.C. §1746, declare and state based on personal  
3 knowledge as follows:

4 1. I am an attorney admitted to practice law in New York; am a member of Seward  
5 & Kissel LLP; and am national counsel for Third-Party Defendant ING Bank, N.V., as Security  
6 Agent ("ING Bank"). I make this declaration in support of ING Bank's Motion to Deny  
7 Consideration of Plaintiff U.S. Oil Trading LLC's Motion for Summary Judgment.

8 2. On December 17, 2014, Plaintiff U.S. Oil Trading LLC ("Plaintiff" or "USOT")  
9 filed a verified complaint against the MV VIENNA EXPRESS and the MV SOFIA EXPRESS,  
10 asserting maritime lien claims. (Doc. 1). Plaintiff did not name ING Bank in its complaint.

11 3. On February 11, 2015, Hapag-Lloyd Aktiengesellschaft ("HLAG"), as claimant to  
12 the *in rem* defendant M/V VIENNA EXPRESS, filed a Verified Answer, Counterclaim and  
13 Third-Party Complaint Seeking Interpleader and/or Declaratory Relief (the "HLAG Complaint")  
14 in response to USOT's complaint. (Doc. 23). HLAG named O.W. Bunker Germany GmbH  
15 ("O.W. Germany"), O.W. Bunker & Trading A/S ("O.W. Denmark"), ING Bank, and Credit  
16 Agricole Corporate and Investment Bank, a division or arm of Credit Agricole S.A. ("Credit  
17 Agricole") as Third-Party Defendants. HLAG counterclaimed against USOT.

18 4. On March 27, 2015, summons was issued as to the Third-Party Defendants.  
19 (Doc. 26).

20 5. On May 29, 2015, a joint status report and discovery plan was submitted. (Doc.  
21 35). The report and plan was executed only by counsel for USOT and HLAG, and was not  
22 served on any other party.

23 6. On June 4, 2015, USOT filed its Motion for Summary Judgment (Doc. 37).

24 7. On June 9, 2015, counsel for O.W. Germany entered a notice of appearance.  
25 (Doc. 40).  
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1           8.       On June 10, 2015, counsel for ING Bank entered a notice of appearance. (Doc.  
2 41).

3           9.       On June 18, 2015, O.W. Germany filed a motion to change venue. (Doc. 43).  
4 USOT filed its opposition on July 23, 2015. (Doc. 52).

5           10.      On July 24, 2015, O.W. Germany filed a verified answer, interpleader claims and  
6 counter-claim in response to the HLAG Complaint. (Doc. 53).

7           11.      No answers have been filed by O.W. Denmark, Credit Agricole, or ING Bank.

8           12.      ING Bank files the instant motion pursuant to Federal Rule of Civil Procedure  
9 56(d) seeking an order denying consideration of Plaintiff's motion for summary judgment  
10 without prejudice to renewal at the close of discovery, in order to allow ING Bank reasonable  
11 time to take discovery relevant to the parties' respective allegations in this matter. Given this  
12 action's filing, ING Bank has not had a reasonable opportunity to obtain the referenced  
13 discovery.

14          13.      To date, the parties have made no discovery demands, exchanged no documentary  
15 discovery and have not taken any depositions.

16          14.      Accordingly, ING Bank requires discovery of, among other things, documents  
17 and communications, including agreements, confirmations, and negotiations, between and  
18 among the parties involved in the transaction at issue in this matter (i.e. O.W. Germany, O.W.  
19 Denmark, USOT, the M/V VIENNA EXPRESS and Credit Agricole).

20          15.      Further, ING Bank will likely need to depose individuals at these entities about,  
21 among other things: (a) their communications; (b) their negotiations over the relevant fuel  
22 bunker supply agreements or other contracts; (c) the sale, purchase order and nomination  
23 confirmations and invoices sent among the parties; (d) the timing of such confirmations or  
24 invoices, and to whom such confirmations and invoices were sent; (e) authority to engage other  
25 parties; (f) knowledge of, and knowledge of identities of, other parties involved in the supply and  
26 delivery of bunkers; (g) historical relationships and past dealings between and among the parties;

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1 and (h) other circumstances surrounding the physical delivery of the bunkers to the M/V  
2 VIENNA EXPRESS.

3 16. This information is expected to create genuine issues of fact as to whether O.W.  
4 Germany (or USOT) has a maritime lien or contractual claim, whether it supplied bunkers within  
5 the meaning of the Commercial Instruments and Maritime Lien Act, 46 U.S.C. §31301  
6 ("CIMLA"), and whether it supplied those bunkers on the order of someone with authority  
7 within the meaning of CIMLA.

8 17. I declare under penalty of perjury that the foregoing is true and correct.  
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10 Executed this 27th day of July, 2015.

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A handwritten signature in black ink, consisting of a large, stylized 'B' and 'P' intertwined, positioned above a horizontal line.

Bruce G. Paulsen, Esq.

CERTIFICATE OF SERVICE

I hereby certify service that on July 27, 2015, I electronically filed the preceding document with the Clerk of the Court using the CM/ECF system which will send notification to the counsel of record in this case:

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**DECLARATION OF BRUCE G. PAULSEN, ESQ. - 5**

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6 Attorneys for Third Party Defendant  
7 O.W. Bunker Germany GMBH &  
8 O.W. Bunker & Trading A/S

6 I declare under penalty of perjury under the laws of the State of Washington that the  
7 foregoing is true and correct.

8 Dated July 27, 2015.

9  
10 s/ Steven W. Block

11 Steven W. Block

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DECLARATION OF BRUCE G. PAULSEN, ESQ. - 6

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